

Arkansas State Board of Embalmers and Funeral Directors
Board Meeting

MINUTES

Wednesday, May 13, 2015
101 East Capitol Avenue
Arkansas River Room, 3rd Floor
Little Rock, AR
9:00 a.m. –3:30pm

Chairman James Terry Woodard called the meeting to order. Members present were: Vice Chairman Bobby Thurman, Bobby Burns, Patricia Roberts, Ben Brazzel, Jerry Adams, and John Wilkerson. Staff that were present: Amy Goode, Executive Secretary, Leslie Stokes, Investigator/Inspector, and Nina Carter, Board Counsel.

1. Introduction of the Board

2. Oral Examinations

- a. Harmon Cowart oral exam administered.

3. Reinstatement

- a. **Kevin Edgar** – Motion made by Brazzel to reinstate after payment of the \$460 delinquent fees, seconded by Adams, all in favor. Motion carried.

4. Establishment Licenses seeking approval

- a. **Jiles and Freeman Funeral Home, 110 N. Freeman, Dermott, AR –Manager Harold Freeman, Owners Ernest & Stacy Jiles - inspected on April 9, 2015.** Motion made by Burns to grant Jiles and Freeman their funeral establishment Type A license, seconded by Brazzel, all in favor. Motion carried.
- b. **Rosewood Cremation and Funeral, 438 Hwy 64 E, Conway, AR – Manager Kim Thibodaux, Owner Richard Neal – Inspected on April 28, 2015.** Motion made by Adams to grant Rosewood Cremation and Funeral their funeral establishment Type A license, seconded by Brazzel, all in favor. Motion carried.
- c. **Madison County Funeral Home, 199 Harmony Road, Huntsville, AR – Manager/Owner Douglas Rabold -Inspected April 27, 2015.** Motion made by Burns to grant Madison County Funeral Home their funeral establishment Type A license, seconded by Brazzel, all in favor. Motion carried.

5. Hearings

- a. **Case #14-15 Wilcox, Kathy V. Gunn Funeral Home, Derrick Gunn, FD and Manager**

Executive Director/Attorney Greg Kirkpatrick served as Hearing Officer and swore in witnesses.

Assistant Attorney General Nina Carter represented the Board.

Derrick Gunn, was represented by Counsel Kris Boyd.

Amy Goode – Executive Secretary witness for the Board.

Leslie Stokes – Investigator/Inspector witness for the Board.

Kathy Wilcox– complainant witness for the Board.

Court Reporter – Tiffanie Harrison - Harrison Court Reporting.

Mr. Kirkpatrick swore in the witnesses for the record.

Hearing Officer Greg Kirkpatrick called the hearing on the record and explained the purpose of the hearing. Mr. Kirkpatrick explained that the Board would base its decision solely on evidence presented today and that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public.

FINDINGS OF FACT

F.1. Respondent Derrick Gunn holds a funeral director and embalmer's license issued by the Board and serves as the licensed funeral director under whose general management and supervision Gunn Funeral Home, a licensed Funeral Home Type A, operates. In connection with all matters described in this order, Respondents were so licensed at all times relevant to the matters addressed herein.

F.2. On November 10, 2014, the Board received a complaint from Kathy Wilcox concerning the handling and care of her husband Tim Wilcox.

F.3. On October 22, 2014, Tim Wilcox, husband of the complainant passed away and initially Gunn Funeral Home was called per advice of the nurse at Hospice Home Care.

F.4. A driver for Respondents picked up Complainant Wilcox's husband and transported him to the Respondent Funeral Home. Complainant informed Respondent Derrick that she would come to the funeral home the next day to make arrangements. Respondent Derrick stated that would be fine.

F.5. Complainant Wilcox received a call less than an hour later from Respondent Derrick concerning making arrangements for her husband.

F.6. On or about October 30, 2014, Complainant Wilcox was informed that her husband would be cremated on Friday, October 31, 2014.

F.7. On or about November 21, 2014, Complainant received her husband's cremains delivered to her home by Respondents.

F.8. On or about October 30, 2014, Complainant Wilcox was informed her husband would be cremated on Friday, October 31, 2014. The Board found this to be unfounded.

F.9. On or about November 2, 2014, Complainant Wilcox held a memorial service with no cremains present. The Board found this to be unfounded.

F.10. On or about November 21, 2014, Complainant Wilcox received her husband's cremains delivered to her home by Respondents. The Board found this to be unfounded.

Motion made by Brazzel to find factual allegations A. 1 – A. 5 and A. 8 – A. 10 be found true, A.6 –A.7 be unfounded, all in favor. Motion carried.

CONCLUSIONS OF LAW

C.1 Charge C.1 in the hearing notice of this matter was not proven.

Motion made by Brazzel to find C. 1 not proven, seconded by Adams, all in favor. Motion carried.

ORDER

Because no charges proffered against the Respondents in this matter were found to be substantiated, the complaint against the Respondents is dismissed.

b. Case#14-17 Wilcox, Kathy V. Dial & Dudley Funeral Home, Jim Dial, FD and Manager

Executive Director/Attorney Greg Kirkpatrick served as Hearing Officer and swore in witnesses.

Assistant Attorney General Nina Carter represented the Board.

Jim & Reynae Dial, represented themselves.

Amy Goode – Executive Secretary witness for the Board.

Leslie Stokes – Investigator/Inspector witness for the Board.
Kathy Wilcox– complainant witness for the Board.
Court Reporter – Tiffanie Harrison - Harrison Court Reporting.
Mr. Kirkpatrick swore in the witnesses for the record.

Hearing Officer Greg Kirkpatrick called the hearing on the record and explained the purpose of the hearing. Mr. Kirkpatrick explained that the Board would base its decision solely on evidence presented today and that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public.

FINDINGS OF FACT

F.1. Respondent Jim Dial holds a funeral director and embalmer's license issued by the Board and serves as the licensed funeral director under whose general management and supervision Dial and Dudley Funeral Home, a licensed Funeral Home Type A, operates. In connection with all matters described in this order, Respondents were so licensed at all times relevant to the matters addressed herein.

F.2. On November 10, 2014, the Board received a complaint from Kathy Wilcox concerning the handling and care of her husband Tim Wilcox.

F.3. On October 22, 2014, Tim Wilcox, husband of the complainant passed away and initially Gunn Funeral Home was called per advice of the nurse at Hospice Home Care.

F.4. On or about October 23, 2014, Mrs. Wilcox contacted Respondents and spoke with Reynae Dial, about transferring her husband to Respondent Funeral Home. Complainant alleges Reynae Dial stated Gunn Funeral Home was a black funeral home and has had its license revoked. The Board found this to be unfounded.

F.5. On or about October 23, 2014, Reynae Dial informed Mrs. Wilcox they would pick up her husband that day.

F.6. On or about October 24, 2014, Mrs. Wilcox and two family friends arrived at Respondent Funeral Home and inquired twice, "do you have my husband?" Each time she was told yes by an employee of Respondent Funeral Home. Respondent Jim informed Mrs. Wilcox they did not have her husband's body. Complainant alleges that Respondent lied to her on numerous occasions. The Board found this to be unfounded.

Motion made by Thurman to find factual allegations A.1-A.3, and A.5 proven, A. 4 & A. 6 unfounded, seconded by Brazzel, all in favor. Motion carried.

CONCLUSIONS OF LAW

C.1. Charge C.1 in the hearing notice of this matter was not proven.

C.2. Charge C.2 did not exist in the hearing notice of this matter.

C.3. Charge C.3 in the hearing notice of this matter was not proven.

C.4. Charge C.4 in the hearing notice of this matter was not proven.

Motion made by Brazzel find charges C.1, C.3, C.4, and C.5 not proven, seconded by Adams, all in favor. Motion carried.

ORDER

Because no charges proffered against the Respondents in this matter were found to be substantiated, the complaint against the Respondents is dismissed.

6. Lunch Break 12:10 – 12:55 pm

7. Crematory Construction Permit Request (grant or deny)

- a. Humphrey Family Properties, LLC. - The Board conducted their second public hearing concerning this matter on December 19, 2014. The administrative record was held open for the supplemental

findings of ADEQ. ADEQ issued their permit to Humphrey on May 6, 2015. Motion made by Brazzel to grant the permit to construct, seconded by Adams, all in favor. Motion carried.

8. **Administrative**

- a. **Approval of March 11, 2015 Board Minutes.** Motion made by Roberts to approve the March 11, 2015 minutes as delivered electronically with no necessary changes or corrections, seconded by Brazzel, all in favor. Motion carried.
- b. **Approval of the March – April 2015 DF&A financial reports and trial balance.** Motion made by Burns to approve the March-April 2015 DF&A reports as delivered and printed, seconded by Brazzel, all in favor. Motion carried.

9. **Board Discussion/Complaints**

- a. **The Board needs to properly record their appointment of the Investigator to perform the duties of the Inspector.** Motion made by Brazzel to appoint Ms. Stokes to serve as the Investigator/Inspector for the Arkansas State Board of Embalmers & Funeral Directors, seconded by Adams, all in favor. Motion carried.
- b. **Case #15-22 Crosby, Patricia V. Griffin-Leggett Healey & Roth.** Motion made by Brazzel to dismiss no violations found in Case#15-22, seconded by Adams, all in favor. Motion carried.
- c. **Case#15-24 Board V. Johnson Funeral Home, Savannah Johnson, Manager and Funeral Director.** Motion made by Burns to issue a consent agreement to close the embalming prep room of Johnson Funeral Home in Malvern, AR, seconded by Brazzel, all in favor. Motion carried. The Board Inspector and the Independent Funeral Directors and Morticians Association will work with Ms. Johnson to bring her up to code and compliant with the Federal Trade Commission laws.
- d. **Case#15-25 Malone, Kimberly V. Wolfe Brothers Funeral Home, Larry Wolfe, Manager and Funeral Director.** Motion made by Brazzel to dismiss no violations found in Case#15-25, seconded by Burns, all in favor. Motion carried.
- e. **Case#15-26 Board V. Aaron Beasley Embalming and Crematory Service, Aaron Beasley, Manager.** Motion made by Burns to table until a follow-up six month inspection to determine if the matter is resolved, seconded by Brazzel, all in favor. Motion carried.
- f. **Case#15-27 Dr. Frank Peretti, Forensic Autopsy & Consultant Serv. V. Hardy Funeral Home, Charles Hardy, Sr. Owner and Charles Hardy, Jr., Manager/FD.** Motion made by Brazzel to set the matter for a hearing July 9, 2015, seconded by Adams, all in favor. Motion carried.

10. **Meeting dates:**

- a. May 14, 2015 regular meeting 9am and annual meeting 1pm.
- b. July 9, 2015 – 9am
- c. September 10, 2015 – 9am
- d. November 12, 2015 – 9am

11. **Adjournment**

Motion made by Brazzel to adjourn the meeting at approximately 3:30 p.m., seconded by Adams, all in favor. Motion carried.